Unto his Grace, his Majesties high Commissioner, And the Right Honourable Estates of Parliament,

The Humble Petition of Sir David Cunningham of Robertland.

Sheweth,

THAT where there being a Process of Declarator of trust raised at the instance of the deceast Duke of *Hamiltoun* and *John Cunningham* of *Enterkine* before this present Parliament against the Creditors of *Corshill*, Mr. *David Cunningham* Advocat and others for declaring that the Laird of *Corshill* stood Infeft in the Estate of *Robertland*, for the deceast Duke of *Hamiltoun*, and *Enterkine* and others mentioned in a Backbond granted be *Corshill* to them thereanent, or to their behoose whom any of them contained in said Backband should nominat; And all the saids Creditors, and *Mr. David Cunningham* being cited, and the Process called the last Session of Parliament, The saids Creditors, and the said Mr. *David Cunningham* were appointed to see in the Clerks hands and be ready against the morrow thereafter, which Process not being debate the last Session of Parliament, and *Enterkine* who was the last surviver, having conform to the Backband of trust, declared that the forelaid trust was for your Petitioners behoose; And your Petitioner having applyed to Your Grace and the Honourable Estates of Parliament, that a day might be prefixed for hearing of your Petitioners Procurators upon the said trust, which being remitted to the Committee for Private Affairs, It was some of the Committee their opinon that the Process ought to be wakned, and the Creditors cited *de novo*. Whereas it is Humbly represented to Your Grace, and the Honourable Estates of Parliament, that Processes before the Parliament cannot be said to sleep unless the pursuer should suffer a Session of Parliament to interveen without prosecuting his Action, this being an undoubted principle in Law that *contra volentem agere non currit præscriptio.* And the very continuing of the Sessions of Parliament from time to time doth virtually contain a continuation of all causes before the same, otherwayes the Leidges would be at continual expences and trouble for warrands for new Citations and Executing the same; And a great hazard that ever their causes should come in the Defenders taking all imaginable wayes for postponing and delaying the samen as they have done in this case.

May it therefore please Your Grace, and Honourable Estates of Parliament, to allow the Committee to proceed without any new citation, upon an intimation to be given to Mr. Stewart *& Mr.* Cunningham *Advocats, who compears for the Creditors, and himself.* And Your Petitioner shall ever Pray. *&c.*

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Pd wn and &c.
Robt Clerk